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Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel

Report of the Sixth Committee

Rapporteur: Mr. Metod **Špaček** (Slovakia)

I. Introduction

1. The item entitled "Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel" was included in the provisional agenda of the fifty-eighth session of the General Assembly pursuant to Assembly resolution 57/28 of 19 November 2002.

2. At its 2nd plenary meeting, on 19 September 2003, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 13th, 20th and 21st meetings, on 23 October and on 3 and 4 November 2003. The statements made during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/58/SR.13, 20 and 21).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel;[1]

(b) Report of the Secretary-General (A/58/187);

(c) Letter dated 20 August 2003 from the Permanent Representative of Malaysia to the United Nations addressed to the Secretary-General (A/58/302);

[1] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 52* (A/58/52).

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(d) Report of the Working Group on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel (A/C.6/58/L.16);

5. At its 1st meeting, on 29 September 2003, the Sixth Committee established a Working Group to continue the work of the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel and elected the Chairman of the second session of the Ad Hoc Committee, Mr. Christian Wenaweser (Liechtenstein), as Chairman of the Working Group (see A/C.6/58/SR.1).

6. At the 13th meeting of the Sixth Committee, on 23 October, the Chairman of the Ad Hoc Committee and of the Working Group introduced the report of the Ad Hoc Committee[1] and the report of the Working Group (A/C.6/58/L.16) (see A/C.6/58/SR.13).

II. Consideration of draft resolution A/C.6/58/L.22

7. At the 20th meeting, on 3 November, the representative of New Zealand, on behalf of Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Fiji, Finland, France, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Liechtenstein, Madagascar, Mali, Malta, Monaco, Nauru, the Netherlands, New Zealand, Norway, Papua New Guinea, Portugal, the Republic of Korea, Romania, Sierra Leone, Slovakia, Slovenia, Spain, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Tuvalu, Ukraine and the United Kingdom of Great Britain and Northern Ireland, subsequently joined by Samoa, introduced a draft resolution entitled "Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel" (A/C.6/58/L.22).

8. At the 21st meeting, on 4 November, the Secretary of the Committee made a statement regarding the administrative and financial implications of the draft resolution (see A/C.6/58/SR.21).

9. At the same meeting, the Committee adopted draft resolution A/C.6/58/L.22, without a vote (see para. 10).

III. Recommendation of the Sixth Committee

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel

The General Assembly,

Recalling its resolution 57/28 of 19 November 2002 on the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel, as well as the adoption by the Security Council of resolution 1502 (2003) on 26 August 2003,

Recalling also its resolution 57/338 of 15 September 2003, in which it strongly condemned the atrocious and deliberate attack against the headquarters of the United Nations Assistance Mission in Iraq in Baghdad on 19 August 2003,

Recalling further its resolution 49/59 of 9 December 1994, by which it adopted the Convention on the Safety of United Nations and Associated Personnel,

Recalling the letter dated 24 October 2000 addressed to the President of the Security Council on behalf of the global staff of the United Nations system,[1] drawing attention to the safety and security problems faced by United Nations and associated personnel,

Recalling the report of the Secretary-General[2] on the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel and the recommendations contained therein, and also recalling the further report of the Secretary-General[3] on this issue,

Reaffirming the need to promote and ensure respect for the principles and rules of international law, including international humanitarian law, as well as relevant provisions of human rights and refugee law,

Reaffirming also the obligation of all humanitarian personnel and United Nations and associated personnel to respect the national laws of the country in which they are operating, in accordance with international law and the Charter of the United Nations,

Deeply concerned by the increasing dangers and security risks faced by United Nations and associated personnel at the field level, and mindful of the need to provide the fullest possible protection for their security,

Expressing its concern that locally recruited personnel are particularly vulnerable to attacks directed at the United Nations,

Deeply concerned that perpetrators of attacks against United Nations and associated personnel seemingly operate with impunity,

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[1] S/2000/1133, annex.

[2] A/55/637.

[3] A/58/187.

Welcoming the recent increase in the number of States that have become parties to the Convention, which entered into force on 15 January 1999, and noting that the Convention has been ratified or acceded to by sixty-nine States as at the date of the present resolution,

Mindful of the need to promote the universality of the Convention,

Having considered the report of the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel,[4] established pursuant to resolution 56/89 of 12 December 2001, and the report of the Working Group of the Sixth Committee,[5]

1. *Expresses its appreciation* for the work done by the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel;

2. *Urges* States to take all necessary measures, in accordance with their international obligations, to prevent crimes against United Nations and associated personnel from occurring;

3. *Also urges* States to ensure that crimes against United Nations and associated personnel do not go unpunished and that the perpetrators of such crimes are brought to justice;

4. *Affirms* the obligation of all States to comply fully with their obligations under the relevant rules and principles of international law in relation to the safety and security of United Nations and associated personnel;

5. *Calls upon* all States to consider becoming parties to and to respect fully their obligations under the relevant international instruments, in particular the Convention on the Safety of United Nations and Associated Personnel;

6. *Recommends* that the Secretary-General continue to seek the inclusion of, and that host countries include, key provisions of the Convention, including those regarding the prevention of attacks against members of the operation, the establishment of such attacks as crimes punishable by law and the prosecution or extradition of offenders, in future as well as, if necessary, in existing status-of-forces, status-of-mission and host country agreements negotiated between the United Nations and those countries, mindful of the importance of the timely conclusion of such agreements;

7. *Recommends also* that, consistent with his existing authority, the Secretary-General advise the Security Council or the General Assembly, as appropriate, where in his assessment circumstances would support a declaration of exceptional risk for the purposes of article 1 (*c*) (ii) of the Convention;

8. *Confirms* that, consistent with his existing authority, the Secretary-General, who has knowledge of the facts and easy access to the information, may provide information, upon the request of a State, on matters of fact relevant to the application of the Convention, such as the fact and content of any declaration of exceptional risk by the Security Council or the General Assembly or any agreement

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[4] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 52* (A/58/52)

[5] A/C.6/58/L.16.

concluded between the United Nations and a humanitarian non-governmental organization or agency;

9. *Notes* that the Secretary-General has prepared a standardized provision for incorporation into the agreements concluded between the United Nations and humanitarian non-governmental organizations or agencies for the purposes of clarifying the application of the Convention to persons deployed by those organizations or agencies, and requests the Secretary-General to make available to Member States the names of organizations or agencies that have concluded such agreements;

10. *Urges* the Secretary-General and relevant bodies to continue to take such other practical measures as are within their authority and existing institutional mandates to strengthen protection for United Nations and associated personnel, including locally recruited personnel, who are particularly vulnerable and account for the majority of casualties among United Nations or associated personnel;

11. *Decides* that the Ad Hoc Committee established under resolution 56/89 shall reconvene for one week from 12 to 16 April 2004, with a mandate to expand the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel, including, inter alia, by means of a legal instrument, and that the work shall continue during the fifty-ninth session of the General Assembly within the framework of a working group of the Sixth Committee;

12. *Requests* the Ad Hoc Committee to submit a report on its work to the General Assembly at the fifty-ninth session;

13. *Requests* the Secretary-General to report to the General Assembly at its fifty-ninth session on the measures taken to implement the present resolution;

14. *Decides* to include in the provisional agenda of its fifty-ninth session the item entitled "Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel".